



## *Nevada State Board of Medical Examiners*

### **\* \* \* MINUTES \* \* \***

### **OPEN SESSION BOARD MEETING**

**Held in the Conference Room at the offices of the  
Nevada State Board of Medical Examiners**

**1105 Terminal Way, Suite 301, Reno, NV 89502**

**and videoconferenced to**

**the conference room of the Nevada State Board of Dental Examiners**

**6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118**

***FRIDAY, SEPTEMBER 9, 2005 – 8:45 a.m.***

***and***

***SATURDAY, SEPTEMBER 10, 2005 – 8:30 a.m.***

#### ***Board Members Present***

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

Marlene J. Kirch

Sohail U. Anjum, M.D.

Jean Stoess, M.A.

Cindy Lamerson, M.D.

S. Daniel McBride, M.D.

Benjamin J. Rodriguez, M.D.

#### ***Board Members Absent***

Javaid Anwar, M.D., President

#### ***Staff Present***

Drennan A. Clark, J.D., Executive Director/Special Counsel

Laurie L. Munson, Deputy Executive Director/

Information Systems Administrator/Chief of Administration

Bonnie S. Brand, General Counsel

Edward O. Cousineau, Deputy General Counsel

Robert J. Barnet, M.D., Medical Reviewer

Douglas C. Cooper, Chief of Investigations

Lynnette L. Krotke, Chief of Licensing

Carolyn H. Castleman, Deputy Chief of Licensing

Trent S. Hiett, Investigator (in Las Vegas)

#### ***Also Present***

Charlotte M. Bible, J.D., Chief Deputy Attorney General

Peter A. Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation

John Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)

Janet M. Wheble, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)

Michael J. Garcia, R.R.T., Practitioner of Respiratory Care Advisory Committee Member (in Las Vegas)

Don Wright, R.R.T., Practitioner of Respiratory Care Advisory Committee Member (in Las Vegas)

## **FRIDAY, SEPTEMBER 9, 2005**

### Agenda Item 1

#### **CALL TO ORDER AND ANNOUNCEMENTS**

- Announcement of Appointment by the Governor of Stephen D. McBride, M.D. and Benjamin J. Rodriguez, M.D. to the Board
  - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
- Explanation Concerning Recording of Open and Closed Sessions of Meetings
  - Charlotte M. Bible, J.D., Chief Deputy Attorney General

The meeting was called to order by Secretary-Treasurer Donald H. Baepler, Ph.D., D.Sc., at 8:45 a.m.

#### **- Announcement of Appointment by the Governor of Stephen D. McBride, M.D. and Benjamin J. Rodriguez, M.D. to the Board**

Dr. Baepler explained that he was chairing the meeting because the Board was currently without a President and the current Vice President was out of the country.

Dr. Baepler then welcomed S. Daniel McBride, M.D. and Benjamin J. Rodriguez, M.D. to the Board.

Dr. Baepler stated the agenda for the meeting was extremely full and that this had become the trend, so a new policy had been devised that will allow for fewer license application appearances and more time for discussion of deliberative issues regarding substantive matters at future Board meetings.

#### **- Explanation Concerning Recording of Open and Closed Sessions of Meetings**

Ms. Bible explained that the Legislature made a number of changes to the Open Meeting Law in the last legislative session, and Senate Bill 421 included a requirement, effective July 1, 2005, that all open and closed sessions of board meetings be either audiotape recorded or transcribed verbatim by a court reporter. The Board has the option of choosing which method it wants to use to be in compliance with the new law, but whichever method it chooses must be used in the same manner for closed sessions as for open sessions. The only difference is that because the Board goes into closed session to consider the character, professional competence, mental or physical health of a person, or alleged misconduct by a person, that information is confidential and the tape recording or transcript will remain confidential and is not a public record. However, the person being discussed in closed session may request a copy of that portion of the tape or transcript of a closed session that applies to him or her.

### Agenda Item 2

#### **APPROVAL OF MINUTES**

- June 3 & 4, 2005 Board Meeting – Open/Closed Sessions
- June 30, 2005 Emergency Telephone Conference Call Board Meeting – Open Session

Mrs. Kirch moved to approve the Minutes of the June 3 & 4, 2005 Board Meeting - Open/Closed Sessions.

Ms. Stoess requested the following change to page 26 of the Open Session Minutes: one of the headers, "Consideration of Request for Staff Attendance at Educational Meetings," was used twice; and the second one needs to be corrected.

Mrs. Kirch amended her motion to approve the Minutes of the June 3 & 4, 2005 Board Meeting Open/Closed Sessions to include Ms. Stoess' change. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to approve the Minutes of the June 30, 2005 Emergency Telephone Conference Call Board Meeting – Open Session. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

### Agenda Item 3

#### **PERSONNEL**

##### **Open Session**

- Introduction of New Board Staff
- Douglas C. Cooper, Chief of Investigations

##### **- Introduction of New Board Staff**

Mr. Cooper stated that Investigator Mike Huse retired at the beginning of August and his replacement, Donald Andreas, began employment with the Board at the beginning of August. He introduced Mr. Andreas and presented a brief history of his professional background.

### Agenda Item 4

#### **CONSIDERATION AND APPROVAL OF 2004-2005 AUDIT BY SOLARI & STURMER**

- Elisa D. Lasa, CPA, Solari and Sturmer, LLC

Dr. Baepler stated he reviewed the 2004-2005 audit, and is pleased with both it and the recommendations made by the auditors.

Elisa D. Lasa, CPA, of Solari and Sturmer, LLC, stated that everything in the audit was comparable with prior years and the Board's budget goals were again met.

Dr. Baepler stated the Board has to mentally operate on a biennial basis because it collects fees on a biennial basis, but it has to operate on a fiscal year basis by statute. Having just collected most of the fees for the biennium, it appears the Board has a huge surplus of money, which it currently does; however, that money has to carry the Board for two years. Accordingly, the Board will end this fiscal year with a significant surplus of funds, which will be consumed during the second year of the biennium. At the beginning of the just-concluded biennium, the Board had capital reserves in excess of 2-1/2 million dollars. The Board decided to lower its reserves to a targeted number of 1-1/2 million dollars and lowered its license fees for physicians from \$600 to \$400 for the 2003-2005 biennium. This, together with additions in staff and other expenditures, resulted in a reduction in the reserves to 1.4 million dollars as of the end of the biennium. The Board will incur some expenses in the coming year that it had not anticipated, but has enough reserves to cover them and will remain on target. If anything,

revenues were estimated conservatively and the audit reflects this. Two of the three recommendations made by the auditors have already been implemented and third will be implemented this year. He then thanked the auditors for their efforts and suggestions.

Mrs. Kirch moved to accept the audit. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 5

#### **AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630**

- Review of Public Comments on, and Consideration of Adoption as Permanent, Proposed Amendments to NAC 630.560, Increasing the Membership of the Practitioner of Respiratory Care Advisory Committee from Three to Five Members; NAC 630.050, Concerning Reapplication for Licensure Following a Denial of Application for Licensure; and NAC 630.080, Concerning Time Limits and Number of Attempts Allowed for Passage of All Three Steps of the USMLE
  - Drennan A. Clark, J.D., Executive Director/Special Counsel; Edward O. Cousineau, Deputy General Counsel
- Consideration of Amendment to NRS 630.301(9), to Adopt a Code of Professional Ethics
  - Robert J. Barnet, M.D., Medical Reviewer; Drennan A. Clark, Executive Director/Special Counsel
- **Review of Public Comments on, and Consideration of Adoption as Permanent, Proposed Amendments to NAC 630.560, Increasing the Membership of the Practitioner of Respiratory Care Advisory Committee from Three to Five Members; NAC 630.050, Concerning Reapplication for Licensure Following a Denial of Application for Licensure; and NAC 630.080, Concerning Time Limits and Number of Attempts Allowed For Passage of All Three Steps of the USMLE**

Dr. Baepler stated the first amendment to the Nevada Administrative Code increases the number of members of the Practitioner of Respiratory Care Advisory Committee to five. The second amendment concerns the USMLE. For quite some time now the Board has seen numerous applicants who have made multiple attempts over many years before passing all three steps of the USMLE. Most states do not allow an unlimited number of attempts over an indefinite period of time, and the Board has proposed an amendment to the Nevada Administrative Code to limit the number of attempts to a total of nine for all three steps, which must be passed within seven years. This would bring Nevada into line with most other states, and the vast majority of the Board's applicants will meet these requirements.

Mr. Clark added that the third amendment would give the Board authority to exercise discretion to bar an applicant from reapplying for licensure following denial of an application for a period of from one to three years. He stated all three of these regulations were previously adopted as temporary regulations because the Legislature was in session, and now the Legislative Counsel Bureau has reviewed all three amendments and have approved all three as permanent, with only one slight change to the language of one of the amendments, which did not change anything substantive in the regulation. Only Larry Matheis attended the public hearing on the proposed amendments and he asked that the Board be cognizant when restricting reapplication to ensure it is applied equally to all groups of people.

Dr. Baepler asked if there was any public comment on any of the three proposed regulations, and none was received.

Mrs. Kirch moved to approve the amendments to NAC 630.560, NAC 630.050 and 630.080 as permanent regulations. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to NRS 630.301(9), to Adopt a Code of Professional Ethics**

Dr. Baepler stated the Legislature strongly inferred that any code of ethics the Board adopted should be modeled after a national code or codes. Drawing up a code of ethics is always a very difficult task, and the Board is fortunate to have Dr. Barnet on staff, as he happens to be truly an international authority on medical ethics. Without Dr. Barnet authoring the proposed code of ethics, the Board would have perhaps had to hire an outside medical ethicist to do the job. What Dr. Barnet has drafted is a very carefully thought out code of ethics, and the only change Dr. Baepler would suggest is a very minor typo, i.e., to strike the word "and" between the words "cooperate" and "with" on the first line of page 3, Roman numeral II, number 3.

Mr. Clark stated the recommendation that the Board adopt a code of ethics is made in statute by the Legislature, under NRS 630.301(9), and he is concerned that if the Board does not adopt a code of ethics, the Legislature may seek to do so for it, and the Board and the medical profession would be better served to adopt a code of ethics the Board and the profession are comfortable with. Following the last Board meeting, he reviewed all the materials provided by Dr. Barnet in support of the proposed code of ethics and all sections within Chapter 630 of the Nevada Revised Statutes. No new obligations would be imposed upon the Board's licensees and no new sources of potential liability would be created through adoption of a code of ethics, so he thinks it is incumbent upon the Board to consider adopting one. Dr. Barnet has not only been a medical reviewer for the Board, but has been a consultant to the Board for over 10 years, and during that time has reviewed over 5,000 complaints against licensees in Nevada, and has been involved in medical ethics for over 23 years. He is not only an M.D., but also holds degrees in history and philosophy and is affiliated with the Center for Clinical Bioethics at Georgetown University. He has done an excellent job of creating the proposed code of ethics.

Dr. Baepler stated that if the Board approved the draft code of ethics at that meeting, the draft would then go out to the public via workshops and a public hearing so the medical community would have adequate opportunity to comment on the proposed code of ethics.

Dr. Barnet explained that the Board is considering adoption of a code of ethics because the Legislature mandated one be adopted some 10 years ago, but none was never implemented, and over the years the Investigative Committees have found situations in which it would have been helpful to have had a code of ethics as a reference to judge certain actions, and not having one has hindered the Committees' ability to deal with some of the issues before them. In drafting the proposed code of ethics, he utilized several codes already in existence and extract from those fundamental principles. Additionally, he took some of the basic principles from the Hippocratic Oath. The draft has been reviewed by the Board's legal staff,

whose suggestions have been incorporated into the draft. It was also reviewed by a federal judge in Washington, as well as Edmund Pellegrino, Founder of the Center at Georgetown, now Emeritus, and the new Chair of the President's Commission on Bioethics, and some of Dr. Pellegrino's suggestions were also incorporated.

Dr. Baepler stated it should be borne in mind that a code of ethics is not intended to be used as a weapon against physicians, to open the floodgates for a rash of complaints because someone did not follow exactly the code of ethics, but rather as a guideline, and to assist the Board's Investigative Committees in defining definitions embodied in the statutes.

Dr. Anjum asked whether the Board could utilize code of ethics solely as a guideline rather than adopting it as a regulation.

Mr. Clark read NRS 630.301(9), and explained that pursuant to that statute, if the Board adopts a code of ethics, it should be adopted by regulation.

Ms. Bible stated that because the statute refers to a code of ethics that defines conduct that brings the profession into disrepute, it would have to be adopted by regulation in order to use it in general application.

Dr. Baepler stated it would be in keeping with the spirit of the statute to adopt a code of ethics by regulation.

Mrs. Kirch moved that Board staff initiate the process and take the steps necessary to draft and review a proposed regulation to adopt a code of ethics. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 6

#### **REPORT ON AND DISCUSSION CONCERNING NEW CRIMINAL BACKGROUND INVESTIGATION PROCEDURE AND REQUEST FOR AUTHORIZATION TO CHARGE A FEE OF \$75 TO SUBJECTS OF CRIMINAL BACKGROUND INVESTIGATIONS**

- Douglas C. Cooper, Chief of Investigations; Drennan A. Clark, J.D., Executive Director/Special Counsel

**\*AND\***

#### Agenda Item 7

#### **CONSIDERATION OF UNIVERSITY OF NEVADA SCHOOL OF MEDICINE'S CONCERNS REGARDING EFFECT ON RESIDENTS AND THE RESIDENCY PROGRAMS OF NEW LEGISLATION REQUIRING CRIMINAL BACKGROUND INVESTIGATIONS ON APPLICANTS FOR LICENSURE**

- Cheryl Hug-English, M.D., Medical Director, and Stan Kirson, M.D., Associate Dean, University of Nevada School of Medicine

Mr. Cooper stated staff was requesting Board approval to assess a fee of \$75 to subjects of criminal background investigations. This would include the \$45 fee the Board is required to pay to the FBI for each background investigation. Accounts have been set up with the FBI and the criminal repository for these investigations. Additionally, the Board has to

purchase preprinted fingerprint cards and preprinted envelopes that fit the cards, to ensure the fingerprints get to the correct place, which is the repository. Each application will now take an additional 7 to 10 man-hours to process, due to the work involved in implementing the background investigation procedure, so the extra \$30 will barely cover the additional costs incurred by the Board.

Discussion ensued concerning how to assess the fee to applicants. Dr. Baepler explained that the Board's application fee was set independently of the new process going through the Legislature, so it would be cleaner to show it as a separate charge rather than to incorporate the charge into the application fee at this stage. The next time the Board reviews its fees, the criminal investigation fee could be incorporated into the application fee if the Board desires to do so at that time. Twenty-one other states are currently requiring background investigations for applicants.

Ms. Krotke asked the Board for direction as to whether the Licensing staff can issue licenses to qualified applicants for whom the staff has received confirmation of submission of the applicant's fingerprints prior to receiving the background investigation report.

Dr. Baepler stated it could be detrimental to applicants, particularly medical school residents, if the Board were to require that the investigation reports be received prior to issuance of licenses, and this issue is of concern to the medical school as well. He stated the Board is considering Agenda Item #7 in conjunction with this item.

Mr. Clark stated the Board has discretion with respect to how it will deal with those it licenses prior to receiving a background investigation report which later comes back with negative information.

Discussion ensued as to how to implement the procedure to cause the least disruption for applicants, and particularly to facilitate the admissions process for residents, and how to deal with licensees whose background investigation reports come back containing negative information after licensure. Dr. McBride suggested the application forms could be revised to include a check-box whereby the applicant would certify that he or she would submit his or her fingerprints within a prescribed period of time and if the applicant did not submit his or her fingerprints, his or her license could be suspended.

Cheryl Hug-English, M.D., Associate Dean of Admissions and Student Affairs of the University of Nevada Medical School, stated that when the Legislature adopted this new requirement they probably did not realize how it would affect or impact residency programs. The issue is that residencies have very prescribed timeframes as to when residents must start the programs and this requirement would not only impact the residents, but also the clinical sites they serve, if the residents are unable to start on those prescribed dates. The Medical School's concern is if there isn't some way for a resident to receive a provisional license prior to completion of the background check, it could severely impact their programs. The suggestion of a check-box an applicant could check stating he or she understood it was his or her responsibility to submit fingerprints and if the applicant did not do so within the prescribed period of time his or her license would be suspended would be ideal, as it would avoid a potentially

significant delay in the licensing process. She stated the American Association of Medical Colleges has recommended that background checks be done for incoming medical students, so beginning with the next application cycle, the Medical School will be conducting background checks on all accepted applicants for the incoming 2006 class.

Discussion ensued concerning how to implement Dr. McBride's suggestion of adding a check-box to the application forms stating the applicant will submit his or her fingerprints within a period of six months and that if the applicant fails to do so, his or her license will be suspended.

Mrs. Kirch moved that the Board implement a procedure for handling the required criminal background investigation of applicants along the lines of that just discussed, including authorization to charge the additional fee of \$75. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 8

#### **REQUEST FOR APPROVAL TO PRACTICE OUTSIDE OF THE UNIVERSITY OF NEVADA SCHOOL OF MEDICINE'S FAMILY PRACTICE RESIDENCY PROGRAM. PER NRS 630.265(4)**

- Jaren H. Blake, M.D., License No. LL1426
- Nancy G. Conley, M.D., License No. LL1427
- Todd F. Inman, M.D., License No. LL1394
- Elizabeth R. Jaffe, M.D., License No. LL1425
- Jay N. Ramage, M.D., License No. LL1453
- Drennan A. Clark, J.D., Executive Director/Special Counsel

Dr. Baepler explained that originally the Medical School didn't want its residents to moonlight and the way the statute was written, it took concurrence of the Board and the Medical School to grant an exception to the policy. For a long time, the Board did not receive many requests for exceptions from that policy, but then it began receiving more and more requests for exceptions and the procedure required those who wanted an exception to appear before the Board. The statute currently requires the Board approve these exceptions, which is something the Board would like to change in the next Legislative session to make it solely a Medical School decision, but in the meantime, the Board and the Medical School have reached an agreement whereby the Board will approve requests for exceptions that are accompanied by letters of approval by the Residency Director of the Medical School, without requiring the applicants to appear.

Ms. Stoess moved that Board approve the requests to moonlight before the Board at this time. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Stan Kirson M.D., Associate Dean of Graduate Education of the University of Nevada Medical School, stated that a detailed policy has been put into place within the last three months at the Medical School to ensure that residents who moonlight are properly monitored and are not overextending themselves. The Medical School feels strongly that moonlighting is a work issue and the Medical School is in the business of education, and any moonlighting, though it may have value, should be monitored extremely carefully. He thinks the Board should be reassured by this policy. He agrees this is a Medical School policy and should not involve the Board.



Agenda Item 9

**CONSIDERATION OF REQUEST BY WASHOE COUNTY DISTRICT BOARD OF HEALTH FOR CLARIFICATION WHETHER A PHYSICIAN WHO IS LICENSED IN ANOTHER STATE MUST ALSO BE LICENSED IN NEVADA TO PERFORM THE DUTIES OF THE DISTRICT HEALTH OFFICER**

- Leslie H. Admirand, Esq., Washoe County Deputy District Attorney; George Furman, M.D.

Mr. Clark stated that in reading the job description of the District Health Officer, there are duties that relate to administrative medicine, and the Board recently amended the statute to allow an applicant to obtain an administrative license to perform duties other than those which would fall under the category of clinical medicine.

Dr. Baepler stated that for 20 years the District Health Officer position was held by a person who was not an M.D. and who was not practicing medicine.

Leslie Admirand, Esq., Washoe County Deputy District Attorney, stated the County would look into an administrative license, but their concern is that the public health statutes do not require the District Health Officer to hold an M.D. license, and the most recent District Health Officer was an R.N., so they want to know what duties a person in that position would be precluded from performing without an M.D. license.

Dr. Baepler stated that if the duties performed by the new District Health Officer were the same as those performed by the previous District Health Officers, the Board would not be concerned.

Ms. Krotke stated the new District Health Officer would still have to meet the requirements in order to obtain an administrative license.

George Furman, M.D., Vice Chairman of the Washoe County District Board of Health, stated the new District Health Officer will begin work September 15 and they would like her to be able to practice her specialties, which are Public Health and Preventive Medicine. The Clark County Health Officer and the State Health Officer have licenses and they would like their Health Officer to have one as well.

Dr. Baepler stated the new District Health Officer could be employed prior to obtaining a license, but could perform only the same duties as the previous District Health Officer until such time as she obtained an M.D. license.

Ms. Stoess moved that Board approve the request from the Washoe County District Board of Health. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 14

**CONSIDERATION OF REQUEST BY NEVADANS FOR ANTIBIOTIC AWARENESS FOR MONETARY CONTRIBUTION FROM THE BOARD**

- William Berliner, M.D., Executive Director, Nevadans for Antibiotic Awareness

Dr. Baepler explained the Board contributed \$10,000 to the program two years ago and the program is now requesting another \$10,000 donation. The program is a worthwhile one;

however, the Board must always be aware that its money comes from licensing fees and remember the Board's principle obligation in terms of financial expenditures. Certainly, doctors need to educate patients about frivolous use of antibiotics, but he is concerned this request is coming to the Board at the wrong time because the Board is going to have some significant expenditures coming up and he isn't comfortable with meeting requests for additional expenditures of funds that would further deplete the Board's capital reserves. Additionally, some members of the Board had reservations two years ago, and some have reservations now, as to whether the Board should be contributing to these types of programs. There is a question as to whether a regulatory board should support these types of programs when the funds come from fees collected from its licensees to conduct the Board's business, and the Board should not be bound by precedent with respect to this request.

William Berliner, M.D., Executive Director of Nevadans for Antibiotic Awareness, distributed information on the program to the Board members and described the program. He stated the program has been in existence since February of 2001, and consists of solely volunteers, with the exception of one paid part-time employee.

Dr. Rodriguez stated that as noble as this program is and as efficacious as it may be, he doesn't think it is appropriate for the Board to get involved in the practice of medicine in this manner.

Dr. Baepler stated that Dr. Anwar asked him to convey the same sentiments expressed by Dr. Rodriguez and that this is the type of thing the Board members should contribute to individually if they feel strongly about it.

Dr. Anjum moved that although the program is a worthwhile one, the Board abstain from contributing to the program since it is not the Board's money to contribute. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 15

#### **COMMITTEE REPORT ON BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM AND CONSIDERATION OF REVISED BOARD BROCHURE AND DRAFT BOARD POSTER**

- Jean Stoess, M.A., Chairperson; Marlene J. Kirch, Board Member; Drennan A. Clark, J.D.,  
Executive Director/Special Counsel

Ms. Stoess stated the Committee has drafted a poster and revised the Board's brochure. If approved, these can be distributed throughout the state at a minimal cost and will compliment the radio and television advertisements the Board is currently running.

Dr. McBride stated that the heading in the brochure, "The Medical Malpractice Act," should be changed to "The Medical Practice Act."

Mr. Clark stated the purpose of the brochure and poster is to inform the public about the Board and asked the Board for authorization to print the brochure and poster and distribute them.

Dr. Baepler explained the performance audit of the Board in 2003 suggested the Board hire a full-time public relations person, and the Board opted not to hire one and instead created the Public Relations Committee to handle the work of increasing public awareness of the Board and what the Board does, and the new brochure and poster are part of this program.

Mr. Cooper stated the Investigations Division also sends the brochures to members of the public who request complaint forms.

Dr. McBride moved that staff proceed with printing and distribution of the brochure, as corrected, and poster. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 16

**REPORT ON STATUS OF THE BOARD'S PUBLIC SERVICE ANNOUNCEMENT CONTRACT WITH NEVADA BROADCASTERS ASSOCIATION**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark advised the Board that the contract with the Nevada Broadcasters Association has been approved by the Board of Examiners.

Agenda Item 11

**CONSIDERATION OF REQUEST BY RAJIV BUDDEN, M.D. FOR MODIFICATION OF BOARD'S DIRECTIONS TO HIM**

- Rajiv Budden, M.D. and/or Hal Taylor, Esq.

Mrs. Kirch moved to go into Closed Session. Ms. Stoess seconded the motion. Dr. Anjum stated the Board could discuss the matter in Open Session, and the Board did not go into Closed Session at that time.

Elizabeth Pawlikowski, License Specialist, summarized Dr. Budden's appearances before the Board. On March 8, 2003, the Board denied Dr. Budden's application for licensure based upon NRS 630.304(1), due to an inappropriate response to Question 19 on his application for licensure. On July 25, 2003, Dr. Budden appealed the denial of his application for licensure to the Second Judicial District Court. The case was pending in the courts for some time. On December 3, 2004, the Board and Dr. Budden entered into a settlement agreement. On March 4, 2005, Dr. Budden appeared before the Board on his second application for licensure, and at that time the Board tabled Dr. Budden's application pending receipt of letters from the Chief of Staff, the Chief of Anesthesia and the Risk Manager of Antelope Valley Hospital stating that Dr. Budden was competent and capable.

Dr. Baepler stated that Dr. Budden has now notified that the Board the individuals from whom he was required to obtain the letters will not write the letters. The Board felt very strongly that the letters be received from those individuals, who would be in the best position to vouch for the competency and capabilities of Dr. Budden. The problem is that Dr. Budden is unable to meet the requirements the Board imposed upon him.

Mrs. Kirch stated the Board has received a letter from Antelope Valley Hospital, but it is not from the Chief of Staff or the Risk Manager.

Dr. Budden appeared with his attorney, Hal Taylor, Esq.

Dr. Budden stated he has passed the written examination for Board certification by the American Board of Anesthesiology, but has not yet passed the oral examination.

Dr. Baepler explained the difficulty here is the Board requires the terms and conditions of the previous agreement be met and the specific letters of reference requested are the only logical letters for the Board to consider.

Mr. Taylor stated it was not an agreement; the Board unilaterally directed Dr. Budden to obtain the letters.

Dr. Baepler stated that although it was not part of the agreement, the need for the letters was discussed with Dr. Budden.

Mr. Taylor stated Dr. Budden has addressed the Board's concerns with additional documentation and would like the Board to take that information into consideration since Dr. Budden is unable able to obtain the required letters from Antelope Valley Hospital.

Dr. Baepler stated the question is broader than one of competency, and also has to do with the way the application for licensure was filled out, termination from previous medical training programs and a history of unprofessional behavior. The issue the Board is focusing on at this time is the adequacy of the reference letters.

Dr. Budden stated he has been employed with a group practice of 12 anesthesiologists for the past six months, and has been practicing for 7 years. If he is granted a license in Nevada, he plans to continue practicing in California as well as in Nevada.

Dr. Baepler stated the other issues have been resolved and the only issue remaining before the Board at this time is Dr. Budden's competency, so the question is whether the Board will accept letters affirming his competency from individuals other than those the Board specifically requested.

Dr. Anjum moved to go into Closed Session. Dr. Held seconded the motion, and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board accept the documentation provided by Dr. Budden as proof of competency and grant Dr. Budden a license. Ms. Stoess seconded the motion. A vote was taken on the motion, which resulted in a tie vote, with Dr. Baepler, Dr. Anjum, Ms. Stoess and Dr. McBride voting in favor of the motion and Mrs. Kirch, Dr. Held, Dr. Lamerson and Dr. Rodriguez voting against the motion.

Ms. Bible explained that a tie vote results in no action, and the Board's options were to make another motion or to table the agenda item until a future meeting.

Dr. Baepler requested that Dr. Budden and Mr. Taylor work with the Board's legal staff to determine alternatives as to how the Board and Dr. Budden can proceed from here.

Agenda Item 12

**CONSIDERATION OF REQUEST BY ROBERT CHANCELLOR, M.D. FOR MODIFICATION OF RESTRICTIONS UPON HIS LICENSE TO PRACTICE**

- Robert Chancellor, M.D. and/or James R. Rosenberger, Esq.

Robert Chancellor, M.D. appeared with his attorney, James R. Rosenberger, Esq.

Mrs. Kirch moved to go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Dr. Baepler stated that the Board was going to focus on Dr. Chancellor's request to change the restriction placed upon his license requiring him to work under the supervision of an M.D. licensed by the Board to allow him to work under Dr. Manthei, who is a D.O., because he cannot find an M.D. E.N.T. who is willing to supervise him.

Dr. Chancellor stated that in order for him to work under Dr. Manthei, Dr. Manthei wants the restriction against surgery removed, which would allow Dr. Chancellor to go through the normal hospital staff privileges and proctoring, etc.

Dr. Chancellor stated he has not performed any surgery since his license was revoked in June 1998.

Dr. Baepler stated that is why the Board wanted Dr. Chancellor to practice under supervision of an M.D. the Board regulates.

Dr. Chancellor stated the issue of his competency was never raised before and one of the reasons he has had difficulty finding a position is that the M.D.s want him to be able to do it all.

Dr. McBride asked what hands-on training courses directed towards E.N.T. surgery he has attended in the last three years, and Dr. Chancellor stated he hadn't attended any.

Dr. Baepler stated the Board has an obligation to protect the public. Some of the surgical procedures performed by physicians with Dr. Chancellor's specialization are extremely delicate and have moderate risk attached, and after seven years of inactivity Dr. Chancellor needs an opportunity to shake off the rust, so the question is whether the Board wants to lift the restrictions on Dr. Chancellor's license to allow him to perform surgery and to allow him to work under the supervision of a D.O.

Dr. McBride stated that in order for Dr. Chancellor to obtain privileges at a hospital, he would have to prove current competency, which would be anything within the last two years, so he would be surprised if he could get clinical privileges at any facility based upon his inactivity during this time.

Dr. Chancellor stated he is also unable to find a job in California due to the restrictions upon his license in Nevada, even though he has an unrestricted license and is in good standing there.

Mr. Rosenberger asked whether the Board would consider broadening the restriction that limits Dr. Chancellor to being supervised by an E.N.T. to allow him to be supervised by an M.D. who would supervise him in a more general setting to allow him to make his way back into practice. He took the SPEX exam within the last five years and his continuing medical education is current, but under the current circumstances, he cannot perform the supervised work because no Otolaryngologist in the state of Nevada is willing to employ him.

Dr. Baepler stated that if Dr. Chancellor wanted the Board to broaden the scope of his medical practice to areas other than E.N.T., that should have been part of the proposal he presented, and at this time the Board is going to hold him to the proposal he submitted.

Dr. Anjum stated that seven years has passed since Dr. Chancellor has performed surgery and the Board has a genuine concern about his surgical skills competency.

Dr. Baepler stated the Board needed to focus on the specific request that Dr. Chancellor made to it in writing, and if Dr. Chancellor wanted the Board to vote on that specific request at that time, the Board would do so. However, in light of the discussion just held, if Dr. Chancellor would prefer to propose a different or broader request for the Board's consideration, it must be provided to the Board in a timely manner for consideration at a future meeting.

Mr. Rosenberger stated he did not anticipate they would be limited to this very small issue because his letter wasn't couched that way.

Dr. Baepler stated the Board did not receive Mr. Rosenberger's letter until long after the agenda was drawn up.

Discussion ensued concerning what will occur upon expiration of the five-year period originally imposed by the Board. Dr. Baepler stated the restrictions would continue after the five-year period concludes if the conditions of the agreement have not been met.

Ms. Bible explained that to have restrictions on a license removed, a licensee has to come back before the Board with evidence of fulfillment of the conditions imposed upon him or her. It takes a Board action to remove restrictions from a license; they are not automatically removed upon expiration of a prescribed time period.

Mr. Rosenberger stated Dr. Chancellor was withdrawing his request at that time and would resubmit the request for consideration at the next meeting.

#### Agenda Item 10

**CONSIDERATION OF REQUEST BY ALVARO H. DEVIA, M.D. FOR MODIFICATION OF CME REQUIREMENT IMPOSED UPON HIM BY THE BOARD IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ALVARO DEVIA, M.D., BME CASE NO. 04-12275-1**

- Alvaro H. Devia, M.D. and/or Edward J. Lemons, Esq.

Dr. Baepler explained the circumstances surrounding Dr. Devia's request for modification of the continuing medical education (CME) requirement imposed upon him by the Board. Dr. Devia has been unable to find any CME courses in chest trauma, as they are

apparently non-existent, and therefore he is unable to comply with the Board's requirement that he obtain CME credits specifically in the area of chest trauma. Accordingly, Dr. Devia is asking the Board to modify the continuing medical education requirement to allow him to take courses in trauma.

Dr. Held moved that the Board change the continuing medical education requirement imposed upon Dr. Devia from chest trauma to trauma. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 13

**CONSIDERATION OF REQUEST BY JEFFREY MAST, M.D. TO ALLOW LICENSED INTERNATIONAL PHYSICIANS TO PARTICIPATE IN SPECIALIZED SURGICAL PROCEDURES, SEEKING BOARD APPROVAL FOR TRAINING OTHER PHYSICIANS IN SPECIALIZED SURGICAL PROCEDURES, AND SETTING PARAMETERS OF SUCH TRAINING**

- Jeffrey Mast, M.D.

Jeffrey Mast, M.D. described the type of training he wishes to offer to international physicians in the area of biogenerative surgery. It would involve the physician observing the surgery and assisting with the surgery in some manner. He stated there is also an issue of the inability of a physician to be able to come a second time because the way the statute is written, they are only allowed to come once, and it is a complicated surgery so the physicians usually want to come back. These physicians do not perform surgery or practice medicine in Nevada, but in order to see the surgery, they have to be scrubbed in and the ideal would be for them to be able to hold a retractor. They are all well-trained, board certified orthopedic surgeons, so it is also beneficial to Dr. Mast and to the patients because Dr. Mast receives excellent help in performing a difficult surgery that he ordinarily wouldn't have.

Mr. Clark stated the physicians provide the Board with certification they are duly licensed and current in the state in which they are practicing. Dr. Mast sends the Board a letter requesting the doctor assist him, the hospital sends a letter requesting the doctor be allowed to assist Dr. Mast and the doctor himself sends a letter requesting he be authorized to come in and obtain the training.

Dr. Baepler stated it was a two-pronged request. One is to make an accommodation for physicians already licensed in one of the other 49 states, and there is room under NRS 630.047 to accommodate them. However, the statute is silent with respect to international physicians, so the question is how the Board would determine competency of those physicians.

Dr. McBride asked whether Dr. Mast would be able to obtain some type of statement from the American Board of Orthopedic Surgery attesting to the competency of the international physicians.

Dr. Mast stated it would not be possible to obtain any type of certification from the American Board of Orthopedic Surgery, but he could obtain certification from the country where the physician is licensed. Dr. Mast would be responsible for any liability which might occur from the program. These physicians do not pay to receive the training, and he is not promoting any product or pharmaceutical company through the program.

Dr. Baepler stated the first part of the request is to make an exception to the Board's normal policy with respect to more than one visit, and he believes staff could be authorized to do that if the Board approves it.

Dr. Stoess moved that physicians from the other 49 states apply through the licensing staff and the Board consider the applications on a case-by-case basis; that approval, if granted, would be for between one and ten surgeries; and that the training be for education purposes only and not for any monetary gain by outside doctors. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Discussion ensued concerning the criteria that should be applied to international physicians who want to attend the training and how the Board could obtain documentation that those physicians are certified to practice orthopedic surgery. Dr. Held suggested that approval could be contingent upon the Board receiving orthopedic board certification from the applicant's country.

Dr. Held moved that the Board support Dr. Mast's program and allow him to train foreign physicians, provided Ian McDonald at the University supports it as a training program and the Board receives documentation of board certification and/or appropriate training from the applicant's country. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 19

#### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John P. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Michael J. Garcia, R.R.T., Advisory Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Lawrence P. Matheis, Executive Director of the Nevada State Medical Association
- Clark County Medical Society Liaison Report - Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Administrators in Medicine's Summer Board Meeting, New Harbor, Maine - Drennan A. Clark, J.D., Executive Director/Special Counsel

#### **- Diversion Program: Quarterly Report**

Dr. Baepler stated the Board is currently supporting the Diversion Program in the amount of \$300,000 per biennium, which is a very significant amount of the Board's budget.



Over the past six years, the Board has debated whether it is appropriate for it to financially support the program and the Board was told its contributions would be reduced as other sources of support were found. This has not occurred, and in fact, the Board's contributions have increased. Over the next two years the Diversion Program needs to find other sources of income because there is a sentiment it is no longer appropriate for the Board to contribute the amount it has been contributing.

Peter Mansky, M.D., told the Board the Diversion Program plans to approach hospitals, malpractice carriers and medical societies for support, and they are going to increase their fees for new entrants in the program. They are also thinking of turning those who do not pay for the Diversion Program's services over to the Board for collection.

Dr. Baepler stated the Board would probably not have jurisdiction to get involved in the business affairs of the Diversion Program.

Dr. Mansky stated the Diversion Program is now using collection facilities for urine collection, and that way participants pay the facilities directly, which saves the Diversion Program money. Currently the Program receives 58% of its funding from the Board, 40% from participant fees and 2% from license candidate screening.

## **RECESS**

Dr. Baepler recessed the meeting for lunch at 12:15 p.m.

## **RECONVENE**

Dr. Baepler reconvened the meeting at 1:00 p.m.

### **Agenda Item 19 (CONTINUED)**

#### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John P. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Michael J. Garcia, R.R.T., Advisory Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
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- Clark County Medical Society Liaison Report - Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Administrators in Medicine's Summer Board Meeting, New Harbor, Maine - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Practitioner of Respiratory Care Advisory Committee**

Michael J. Garcia, R.R.T., advised the Board he will be resigning from the Practitioner of Respiratory Care Advisory Committee, as he has taken a promotion which will require him to move to Arizona. He stated his work with the Advisory Committee has been one of the most interesting and rewarding things he has done in his respiratory therapy career.

Dr. Baepler told Mr. Garcia the Board appreciates all of his efforts as part of the Advisory Committee.

Agenda Item 24

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. RALPH CONTI, M.D., BME CASE NO. 04-6034-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

James R. Rosenberger, Esq., appeared to represent Ralph Conti, M.D.

Dr. Baepler stated that since he was one of the members of the Investigative Committee that authorized the filing of the complaint against Dr. Conti, he could not participate in adjudication of the matter and was recusing himself. Mrs. Kirch would be conducting the adjudication.

Mrs. Kirch stated the adjudicating Board members were Dr. Held, Ms. Stoess, Dr. Lamerson, Dr. McBride, Dr. Rodriguez and herself. The non-adjudicating Board members, as well as Ms. Brand, left the room.

Mrs. Kirch asked the adjudicating Board members whether they had reviewed the information provided relative to the adjudication, and all members indicated they had. Mrs. Kirch then read Counts I and II of the complaint against Dr. Conti.

Mr. Rosenberger expressed concern that Count II of the complaint was read since no evidence was presented on that count at the hearing.

For purposes of the record, Ms. Bible polled the adjudicating Board members as to whether they had read the adjudication packet, and all indicated they had.

Dr. Held moved that the count against Dr. Conti concerning Patient B be dismissed. Dr. Lamerson seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Held moved to go into Closed Session. Dr. Lamerson seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held moved that the Board make a finding that Dr. Conti did not commit malpractice because the allegations of conduct which fell below the standard of care were not supported by the evidence. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Held moved that the Board dismiss the counts of the complaint against Dr. Conti. Dr. Rodriguez seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

**Agenda Item 19 (CONTINUED)**

**REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John P. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Michael J. Garcia, R.R.T., Advisory Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
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- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances
- Administrators in Medicine's Summer Board Meeting, New Harbor, Maine - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Physician Assistant Advisory Committee**

Janet Wheble, P.A.-C, stated that at the Board's June meeting, John Lanzillotta, P.A.-C, had requested the Board's advice concerning the ability of Nevada physician assistants to provide medical care in emergency disaster situations, and following discussion of the issue, one of the Board members suggested the Nevada Department of Homeland Security as a resource in addressing the question. The Advisory Committee reviewed the current statutes regarding homeland security and they were unable to find anything relating to the question, so they contacted Dr. Joe Heck, a Nevada State Senator who is also involved in homeland security and who teaches courses in bioterrorism. He advised them the statute covering physicians and licensed medical personnel was just amended regarding the Good Samaritan Law for physicians acting on behalf of a governmental agency in providing gratuitous care. They reviewed the particular statute, NRS 41.505, and found it provides coverage for liability but does not address authority for physician assistants to function without immediate supervision of their physicians in disaster situations. They contacted Ann Davis, Legislative Director for the AAPA, who advised them that in order for Nevada physician assistants to render assistance in disaster situations without physician supervision, the statutes would have to be revised. The Advisory Committee has provided the Board with information concerning other states' laws concerning physician assistants providing care in emergency situations and the Advisory Committee is requesting the Board include a request to change the applicable statutes in its 2007 legislative package. If the Board agrees, the Advisory Committee will formulate language for revision of the statute and provide it to the Board.

Mr. Clark stated if the Physician Assistant Advisory Committee forwards their proposal to the Board, he will see that it is included in the proposed legislative package for 2007 for the Board's consideration.

**INVESTIGATIVE COMMITTEES – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,  
Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Vice President, Chairperson,  
Investigative Committee B**

- Consideration of Cases Recommended for Closure by the Committees

**- Consideration of Cases Recommended for Closure by Committees**

Dr. Baepler reported that Investigative Committee A considered 103 cases, authorized filing formal complaints in 5 cases, appearances were requested in 4 cases, 3 cases were referred back to investigative staff for further investigation and 79 cases were recommended for closure. [Due to multiple doctors being listed on single cases, the count provided to Dr. Baepler was askew at the time of his oral report. The Investigations Division subsequently reconciled the report and the actual numbers are as follows: 103 cases were considered by Investigative Committee A, the Committee authorized filing formal complaints in 8 cases, appearances were requested in 4 cases, 4 cases were referred back to investigative staff for further investigation and 87 cases were recommended for closure.]

Dr. Anjum reported that Investigative Committee B considered 66 cases, authorized filing formal complaints in 4 cases, 2 cases were sent out for peer review, appearances were requested in 4 cases, 4 cases were referred back to investigative staff for further investigation and 52 cases were recommended for closure.

**- Investigations Division  
- Status of Investigative Caseload**

Mr. Cooper stated there were 764 open cases prior to the most recent meetings of the Investigative Committees, which equaled a caseload of 112 cases per investigator, and after closing those recommended by the Investigative Committees, there will be 633 open investigations, which is an average of 105.5 cases per investigator. Additionally, there are 153 new civil court cases, there have been 74 referrals to other agencies, 144 no-jurisdiction letters were sent, there are 54 peer reviews in the field and 57 peer review requests in the queue, including those just referred by the Investigative Committees. One-half of the civil court cases will also go to peer review. The average caseload for investigators in the West is 55, and the Nevada Board's investigators' comfort level is between 70 and 80.

Ms. Stoess moved to approve for closure the cases recommended by the Investigative Committees. Dr. Anjum seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

**- Nevada State Medical Association Liaison Report**

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, reported one of the issues before them is how to deal with the refugees coming into the state. Disaster planning will be on the agenda for meetings in the coming months in terms of providing

assistance to physicians. Mr. Matheis stated he appreciates working with the Board staff and has been sending information through Mr. Clark for the Board, and will continue to do so. Since Dr. Montoya is no longer with the Board, he has suggested to Dr. Lamerson that she might take over his duties as the Board liaison, since she is already the liaison with the Washoe County Medical Society.

Dr. Baepler stated the Board will provide the Medical Association's recommendation to the new President for consideration.

Mr. Matheis stated the Medical Association would be happy to assist in distributing the Board's new brochures and will put a copy of it on their website and encourage doctors to download it for their offices.

**- Clark County Medical Society Liaison Report**

Weldon Havins, M.D., said the Clark County Medical Society will miss Dr. Montoya, who was the Board's liaison with the Medical Society and made virtually every meeting, and asked that another Board member be appointed to attend the Medical Society's meetings. He stated his relationships with Board staff have also been very professional, cordial and efficient.

Dr. Baepler stated the Board would make every effort to continue with a liaison to the Medical Society and if not the Board President, it will be one of the physicians from Clark County.

**- Investigations Division**

**- Status of Investigative Caseload (CONTINUED)**

Mr. Cooper advised the Board that in 2003, the Legislature incorporated into the Medical Practice Act provisions requiring hospitals to report to the Board within 30 days disciplinary actions and suspensions of privileges. In that regard, Board staff met with medical staff officers at hospitals to advise them as to the reporting requirements. Most of the hospitals are in compliance. However, there have been two incidents, with Southern Hills Hospital and North Vista Hospital, where the hospitals failed to inform the Board of disciplinary actions, and in accordance with Nevada statutes, the Board is required to notify the Health Division, which staff did. The Health Division called and asked Mr. Cooper about it since they were unaware of it, and later assessed fines of \$500 against each hospital.

Dr. McBride stated some hospitals are probably unclear about what they are required to report, and thinks visiting the facilities is a good idea, but would recommend the Board require hospital staff coordinators or designated risk management persons from each hospital to meet with Board staff on at least an annual basis to get updated as to the Board statutes and the reporting requirements.

**- Washoe County Medical Society Liaison Report**

Dr. Lamerson stated it was brought up at the June meeting that some military recruiters may be violating state law by practicing medicine without a license by are talking mentally ill patients and asthma patients into going off their medications for a period of time in order to qualify for military duty.

Dr. Baepler stated it is an issue for county District Attorneys' offices.

**- Secretary-Treasurer  
- Status of Finances**

Dr. Baepler stated the fiscal year and the biennium just began. Projections are conservative and he is comfortable with them. The Board is on target to meet its objectives for the biennium and is in good financial shape.

**- Administrators in Medicine's Summer Board Meeting, New Harbor, Maine**

Mr. Clark advised the Board that Administrators in Medicine is working on a certification course for investigators of all state medical boards.

Agenda Item 20

**EXECUTIVE STAFF REPORTS**

- Consideration of Request for Staff Attendance at Educational Meetings
- Status of Staff Additions and Board Office Space
- Informational Items
- Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Consideration of Request for Staff Attendance at Educational Meetings**

Mr. Clark requested authority for staff to attend the educational meetings outlined on the list provided to Board members as part of the agenda packet.

Mrs. Kirch moved to approve the requests for training as outlined in the agenda book. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 21

**LEGAL REPORTS**

- Bonnie S. Brand, J.D., General Counsel
- Edward O. Cousineau, J.D., Deputy General Counsel
- Charlotte M. Bible, J.D., Chief Deputy Attorney General
- Board Litigation Status

**- Board Litigation Status**

Ms. Brand reported that they are interviewing to fill the third attorney position due to the increased caseload, and expect to find someone shortly. There are 4 cases pending adjudication at this meeting, 3 cases are currently before the Hearing Officer for synopses for

the December Board meeting, there are a number of hearings scheduled between now and then, and hopefully synopses will be available for those at the December meeting as well. There was 1 summary suspension of a license this quarter, Dr. Stuart Steele, 13 letters of concern were sent out, 25 cases are scheduled for hearings through March 2006, there are 13 cases in which the Investigative Committees have authorized the filing of formal complaints, there are 2 cases pending settlement on the agenda for this meeting, and there are 46 cases requiring Investigative Committee summaries.

Ms. Bible reported there are 2 cases currently in litigation. The first is Dr. Giarrusso's case against the Board, some of Board members and some Board staff. Ms. Bible had the case removed to federal court and there are motions now pending in the case. The second case is Dr. Steele's case, wherein he is asking the court to vacate the Board's summary suspension order. An order was issued to show cause why the order should not be vacated and Ms. Bible will be appearing at a hearing on the motion on the 14<sup>th</sup> to argue that it should not be vacated.

Agenda Item 20 ***(CONTINUED)***  
**EXECUTIVE STAFF REPORTS**

- Consideration of Request for Staff Attendance at Educational Meetings
- Status of Staff Additions and Board Office Space
- Informational Items
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Status of Staff Additions and Board Office Space**

Mr. Clark advised the Board that Ms. Krotke will begin interviewing soon to hire an additional License Specialist, and the Board will be leasing additional office space in the building to accommodate the growing Licensing Division.

Agenda Item 18

**DISCUSSION CONCERNING ONLINE RENEWALS AND CONSIDERATION OF REQUEST FOR AUTHORIZATION TO PROCEED AND TO ENTER INTO CONTRACT FOR ONLINE RENEWALS PROGRAM**

- Lynnette L. Krotke, Chief of Licensing; Laurie L. Munson, Deputy Executive Director/Information Systems Administrator

Dr. Baepler stated the need for online renewals of licensure has already been recognized by the Board. Lynnette, Laurie and other staff members recently visited other medical boards that utilize the online renewals software the Board is considering using.

Ms. Krotke stated that there are currently 29 other states offering online renewals and 3 who are going online in the next year. Adding online renewals will save considerable staff time.

Dr. Baepler stated it will also make it more convenient for those the Board licenses. Staff has provided the Board members with two options. Option 1 would be to begin offering online renewals for the 2006 renewal period for respiratory therapists, which would be less expensive up front, but it would likely be impossible to get the system up and running sufficiently and to get everyone trained in time for this renewal cycle and would be very expensive to add

the physicians and physician assistants at a later time. Staff is recommending Option 2, which would be to begin offering online renewals for the 2007 renewal period for physicians and physician assistants. This would better fit the Board's time schedule and would be less expensive overall.

Mrs. Kirch moved that the Board proceed with Option 2, recognizing the costs may vary some from the estimate. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 17

**REPORT ON COMPLIANCE TRACKING PROGRAM AND CONSIDERATION OF AUTHORIZATION OF COMPLIANCE OFFICER TO PROCEED WITH COLLECTION PROCEDURES TO COLLECT MONEY OWED THE BOARD AS A RESULT OF DISCIPLINARY ACTIONS**

- Douglas C. Cooper, Chief of Investigations; Terri L. Ward, Investigator

Dr. Baepler stated that over the years, the Board has assessed fines and costs of investigation to individuals as a result of disciplinary action taken against them. Collected fines are turned over to the State General Fund and recovered costs are kept by the Board. Historically these fines and costs have been agreed to through a settlement and the Board has never followed up with due diligence to collect them. There are some individuals who still owe significant amounts to the Board.

Mr. Cooper stated the Board now has a Compliance Officer, Investigator Terri Ward, who is working to bring all outstanding cases into compliance.

Dr. Baepler explained staff has recommended utilizing the options as outlined in the agenda packet to collect fines and bring licensees into compliance with other discipline imposed upon them by the Board, and is requesting authority from the Board to do so.

Mr. Cooper explained there are 33 open cases and the majority are licensees who have moved out of state.

Discussion ensued concerning methods which could be utilized to bring these individuals into compliance.

Dr. Held suggested that the Board could revoke the license of a licensee who is not in compliance with an order against him or her.

Dr. Baepler suggested the Board could refuse to renew a license if a licensee is not in compliance.

Mr. Cooper requested that licensees with other conditions upon their licenses, such as attending therapy, should be included in the compliance program for monitoring and enforcement as well as those who owe the Board money.

Dr. Baepler stated the Compliance Officer should track any conditions that the Board imposes upon a licensee.



Mr. Cooper stated there is an option available to the Board through NRS 353C, whereby the Board can go through the Comptroller's Office for collection of monetary sanctions, and 14 of the Board's cases, totaling \$113,000, would qualify for inclusion in the program.

Mrs. Kirch moved that the Board authorize the Compliance Officer to utilize the procedures available to her to enforce compliance with the Board's orders. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 28

##### **LICENSURE RATIFICATION**

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status  
Approved Since the June 3 & 4, 2005 Board Meeting

Mrs. Kirch moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the June 3 & 4, 2005 Board meeting. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 22

##### **ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. WILLIAM FRANCIS DOYLE, C.R.T., BME CASE NO. 04-23903-1**

- Bonnie S. Brand, J.D., General Counsel

#### **OPEN SESSION**

Dr. Baepler named the adjudicating Board members, and the non-adjudicating Board members, as well as Ms. Brand, left the room.

Dr. Baepler asked the adjudicating Board members whether they had read the adjudication materials, and all indicated they had. Dr. Baepler summarized the facts of the case. Mr. Doyle is a respiratory therapist who has a problem with alcohol, has been dismissed from jobs, has missed work and has had a number of disciplinary actions imposed upon him during the course of his career. The complaint contains three counts: Count I is an inability to practice respiratory care with reasonable skill and safety due to the use of alcohol or drugs; Count II is a lack of competency to provide respiratory care services; and Count III is engaging in conduct which brings disrepute upon the practice of respiratory care. Mr. Doyle has left the state, and the facts of the case are not in dispute.

Dr. Anjum moved that the Board find Mr. Doyle guilty of Count I, as it has never been disputed that he appeared on the job intoxicated and missed work because he was unable to perform on the job due to alcohol use. Dr. Lamerson seconded the motion, and it passed unanimously, with all adjudicating members voting in favor of the motion.

Dr. Held moved that the Board find Mr. Doyle guilty of Count II because he is incompetent to provide respiratory care services due to appearing on the job inebriated and there is also a question of competency independent of his problem with alcohol. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Anjum moved that the Board find Mr. Doyle guilty of Count III for bringing the respiratory care profession into disrepute due to his behavior both in the hospital setting and in the community, where he was found to be drunk and arrested for public intoxication. Dr. Held seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mr. Cooper advised the adjudicating Board members that the costs incurred in the investigation and prosecution of the case against Mr. Doyle, not including the Attorney General's Office fees, are \$2,061.92.

Discussion ensued concerning the possible penalties which could be imposed upon Mr. Doyle for these three violations.

Dr. Anjum moved to revoke Mr. Doyle's license due to being found guilty of Counts I, II and III, his problem with alcohol, his incompetence to practice respiratory care and for bringing disrepute to the profession of respiratory therapy, and to assess the costs of investigation and prosecution of the case against him, payable within 90 days of the date of the order. Dr. Held seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 23

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. LEWIS CHAIKIN, M.D., BME CASE NO. 04-18977-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Dr. Baepler named the adjudicating Board members and the non-adjudicating Board members, as well as Ms. Brand, left the room.

Mrs. Kirch asked the adjudicating Board members whether they had read the adjudication materials, and all indicated they had. Mrs. Kirch then read the counts of the complaint against Dr. Chaikin.

Dr. Lamerson moved that the Board go into Closed Session. Ms. Stoess seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board find Dr. Chaikin guilty of Count I of the complaint because he committed malpractice by falling below the standard of care in prescribing controlled substances to Patients A and B outside the scope of a normal pain management plan, and by prescribing to Patient C, whom he was treating for anxiety and for whom he had no treatment plan. Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Rodriguez moved that the Board find Dr. Chaikin guilty of Count II of the complaint because he fell below the standard of care in prescribing controlled substances to Patients A, B and C outside the guidelines for prescribing controlled substances set forth in NRS 630.306(3). Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Lamerson moved that the Board find Dr. Chaikin guilty of Count III of the complaint because he violated NRS 630.3062 by not keeping timely, legible, accurate treatment records or the treatment records were scanty, which Dr. Chaikin admitted to. Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Rodriguez moved that the Board go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that in accordance with finding Dr. Chaikin guilty of the three counts of the complaint against him, the Board issue a public reprimand to Dr. Chaikin, require Dr. Chaikin to complete 10 hours continuing medical education in proper prescribing practices within six months of the Board's order, in addition to the continuing medical education hours required to maintain licensure in the state of Nevada, and to pay the costs of investigation and prosecution of the case against him, payable within 90 days of the date of the order. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 26

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. AGAPITO RACOMA, M.D., BME  
CASE NO. 04-7543-1**

- Edward O. Cousineau, J.D., Deputy General Counsel

**OPEN SESSION**

Attorney Steven Lewis, Esq., appeared on behalf of Agapito Racoma, M.D.

Dr. Held moved that the Board go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held stated he had a problem with the wording in the stipulation, in that it states Dr. Racoma's actions were a deviation from the standard of care, because he does not think that was the case. He thinks Dr. Racoma's actions rose to the level of a violation and therefore the wording should so state.

Dr. McBride moved that, because the violation rises to the level of malpractice, the Board reject the proposed settlement agreement as outlined in the document before the Board. Ms. Stoess seconded the motion.

Dr. Baepler asked Mr. Lewis whether he was in a position to renegotiate a settlement at that time, or whether he would have to consult with his client. Mr. Lewis indicated he would have to discuss it with his client, but he would be willing to continue to negotiate a new settlement with the Board.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Baepler stated the Board's legal counsel is directed to revise the settlement agreement to state that Dr. Racoma's actions constituted a single count of malpractice and to add any other phraseology the attorneys feel necessary to restructure the settlement, and bring the revised agreement to the Board for consideration at a future meeting.

Agenda Item 29

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE**

Mrs. Kirch moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Dr. Anjum seconded the motion, and it passed.

**CLOSED SESSION**

**29(b) Antoinette Davis, M.D.**

Mrs. Kirch questioned Antoinette Davis, M.D., who appeared before the Board to respond to questions concerning the delay in beginning her residency following medical school, why it took her so long and so many attempts to pass the USMLE, and the fact that she answered negatively to Question 12 on her 2004 application for licensure and affirmatively to Question 12 on her current application.

Dr. Davis explained why she had difficulty passing the USMLE, stating she does not perform well on standardized tests, said the delay in beginning her residency training was due to personal reasons, and the reason she responded negatively to Question 12 on her first application is that her lawyer at the time advised her the lawsuit against her was not a malpractice suit.

Dr. Anjum moved that the Board grant Antoinette Davis, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Held seconded the motion, and it passed.

**29(c) Harry Donias, M.D.**

Dr. Baepler questioned Harry Donias, M.D., who appeared before the Board to respond to questions concerning his medical training and his affirmative response to Question 13 on his application for licensure.

Dr. Donias explained the circumstances surrounding his two convictions for driving under the influence.

Dr. McBride moved that the Board grant Harry Donias, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved to return to Closed Session for the same purposes stated before. Dr. Held seconded the motion, and it passed.

**29(d) Robert Greenhalgh, M.D.**

Dr. Baepler explained the circumstances under which the Board grants licensure by endorsement.

Dr. Lamerson questioned Robert Greenhalgh, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 28 and 31 and negative response to Question 33 on his application for licensure by endorsement.

Mrs. Kirch moved that the Board decline to exercise its discretion to grant licensure by endorsement to Robert Greenhalgh, M.D. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Greenhalgh explained the circumstances surrounding his refusal to contribute to the Catastrophe Loss Fund in 1995, which resulted in suspension of his license in Pennsylvania in 1997.

Dr. Baepler told Dr. Greenhalgh that his competency has never been in question and the deficiency the Board was most concerned about has been rectified by his passing the SPEX.

Dr. Held moved that the Board grant an unrestricted license to Robert Greenhalgh, M.D. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(e) Stanley Cohen, M.D.**

Stanley Cohen, M.D., appeared before the Board on his application for licensure by endorsement.

Ms. Stoess questioned Dr. Cohen concerning the fact that he has not passed a major examination within the past 10 years.

Dr. Baepler explained the circumstances under which the Board grants licensure by endorsement.

Dr. McBride moved that the Board exercise its discretion to grant licensure by endorsement to Stanley Cohen, M.D. because he is a full professor of medicine in neurology at UCLA, and therefore meets the qualifications of an outstanding academic; because he is planning to start a stroke program at Sunrise Hospital; and because there are very few neurologists in the community in general, and only two with his expertise, so he would be a great addition to the Nevada medical community. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**29(f) Christopher Swanson, M.D.**

Dr. Anjum questioned Christopher Swanson, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 19 on his application for licensure.

Dr. Swanson explained the circumstances surrounding his being placed on probation during his Nephrology fellowship at the University of Arizona.

Dr. McBride moved that the Board grant Christopher Swanson, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved to return to Closed Session for the same purposes stated before. Dr. Held seconded the motion, and it passed.

**29(g) Daniel Williams, M.D.**

Dr. Anjum questioned Daniel Williams, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Williams described the circumstances surrounding the malpractice claims against him.

Dr. Anjum moved that the Board grant Daniel Williams, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

**29(h) Jose Tulao, R.R.T.**

Mrs. Kirch questioned Jose Tulao, R.R.T., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 20, 21 and 24 on his application for licensure and concerning the fact he hasn't practiced respiratory therapy since January 1997.

Mr. Tulao explained the circumstances surrounding his employment of an individual for several years while at Martin Luther King Hospital who did little or no work for the hospital while being paid a full salary. He stated he is qualified to return to the practice of respiratory therapy because he became recertified in February 2005.

Dr. McBride moved that the Board deny Jose Tulao, R.R.T.'s application for licensure, based upon his overall record and his responses to questions posed by the Board concerning his record. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**29(i) Piotr Kubiczek, M.D.**

Piotr Kubiczek, M.D., appeared before the Board on his application for licensure by endorsement.

Dr. Baepler explained the circumstances under which the Board grants licensure by endorsement and advised Dr. Kubiczek that he does not meet the criteria.

Dr. Anjum moved that the Board decline to exercise its discretion to grant licensure by endorsement to Piotr Kubiczek, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler explained to Dr. Kubiczek that he was caught in a technicality due to the fact that it took him three months longer than the current regulation would accept for passing the USMLE. However, since it is a regulation, and not a statute, the Board could make an exception to the regulation, and this would be a very minor exception. The Board recognizes the extreme need for help in the Coroner's Office.

Dr. Anjum moved that the Board grant an unrestricted license to Piotr Kubiczek, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**29(j) Melissa Kyrimis, M.D.**

Dr. Lamerson questioned Melissa Kyrimis, M.D., who appeared before the Board to respond to questions concerning her affirmative responses to Questions 12 and 31 on her application for licensure.

Dr. Kyrimis described her medical training and explained the circumstances surrounding the single case of malpractice against her.

Mrs. Kirch moved that the Board grant Melissa Kyrimis, M.D.'s application for licensure. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**29(k) Dale Gentile, R.R.T.**

Dr. McBride questioned Dale Gentile, R.R.T., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Mr. Gentile described the circumstances surrounding his two arrests in 1988 for driving under the influence and his arrest for sexual assault.

Dr. McBride asked Mr. Gentile whether he had ever been accused of sexual assault on a patient before, and Mr. Gentile stated he had not. He stated he was not arrested in Burbank for sexual assault on a patient and he was never accused of sexual assault there. He then admitted there was an incident, but he didn't remember dates or names, wherein he saw a patient who had come on to him a couple of times, which he reported to a nursing supervisor, and the patient later made an accusation, but nothing came of it. He did discuss it with the department head and the police conducted a preliminary investigation, but the matter was subsequently dropped. He was never arrested or charged, and that is why he did not report the case on his application.

Dr. McBride advised Mr. Gentile that deliberately misleading the Board and falsifying an application is grounds for rejection of the application without any other consideration.

Dr. McBride moved that the Board deny Dale Gentile, R.R.T.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lamerson moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

#### **29(l) Gina Nguyen, P.A.-C**

Dr. Rodriguez questioned Gina Nguyen, P.A.-C, who appeared before the Board to respond to questions concerning the fact that she has not practiced clinical medicine since she received her physician assistant degree.

Ms. Nguyen stated she would be recertifying in December 2005, as physician assistants are required to do so every two years, and she has already completed the 100 hours of continuing medical education which is also required every two years. The last time she practiced clinical medicine was in rotation in 2003. She described what she had been doing to keep her clinical skills current. She volunteered at a family practice clinic for a few months in Portland, Oregon last year and helped teach clinical skills at Pacific University this past summer. She has received offers from two different groups in Nevada.

Dr. Anjum moved that the Board grant Gina Nguyen, P.A.-C.'s application for licensure. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### **29(m) Leda Edwards, P.A.-C**

Dr. Held questioned Leda Edwards, P.A.-C, who appeared before the Board to respond to questions concerning the fact that she has not practiced clinical medicine since December of 2001.

Ms. Edwards described what she had been doing to keep current since December of 2001. She recertified in 2004, will recertify again in 2006, has kept her continuing medical education credits up to date and has been reading and attending seminars. She has also considered going into a preceptorship prior to obtaining a regular position, but is confident in her knowledge and skills.



Dr. Baepler asked Ms. Edwards whether, if the Board granted her a license with the temporary condition that she do a two or three month preceptorship, she would be able to find a position that would accommodate that, and she indicated she thought she could.

Dr. Held moved that the Board grant Leda Edwards, P.A.-C.'s application for licensure with the temporary restriction that she obtain two months' hands-on experience in a preceptorship supervised by an M.D. licensed by the Board. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**29(n) Hector Rodriguez, M.D.**

Dr. Held questioned Hector Rodriguez, M.D., who appeared before the Board to respond to questions concerning his negative responses to Questions 13 and 31 on his application for licensure.

Dr. Rodriguez described the circumstances surrounding his arrest for driving under the influence in 2004 and explained that he responded negatively to Questions 13 and 31 because what he pled to was a traffic violation, not a misdemeanor. He stated if he were to answer the question now, he would answer it in the affirmative and explain the circumstances. He told the Board he signed a one-year contract with the Diversion Program and explained why he had difficulty passing the USMLE. He stated he plans to take the Anesthesiology Boards.

Dr. Held moved that the Board return to Closed Session. Mrs. Kirch seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride advised Dr. Rodriguez to participate in the Diversion Program to the letter and instructed him to ensure his responses to these questions are forthright in the future, especially when going before credentialing committees.

Dr. McBride moved that the Board grant Hector Rodriguez, M.D.'s application for licensure contingent upon continued participation in, and completion of, his Diversion Program contract. Ms. Stoess seconded the motion, and it passed, with Mrs. Kirch opposed to the motion and the Chair voting in favor of the motion.

**29(a) Ilan Reizes, M.D.**

Ilan Reizes, M.D., did not appear before the Board.

Dr. Held explained that Dr. Reizes appeared before the Board at its June 2005 meeting on his application for licensure by endorsement. At that time, the Board granted Dr. Reizes an unrestricted license to practice medicine pending successful passage of a peer review. Dr. Reizes subsequently received a peer review, which was satisfactory.

Dr. Held moved that the Board grant an unrestricted license to Ilan Reizes, M.D. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 27

**CONSIDERATION OF DISMISSAL OF COMPLAINT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. JOHN LEKAS, M.D., BME***  
**CASE NO. 05-12193-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Dr. Baepler stated there is nothing to be gained by pursuing this case against Dr. Lekas. Dr. Lekas has stopped practicing, given up his Nevada license, and his life expectancy is extremely short, as he is terminally ill.

Mrs. Kirch moved that the Board dismiss the case against Dr. Lekas. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**RECESS**

Dr. Baepler recessed the meeting at 7:05 p.m.

**SATURDAY, SEPTEMBER 10, 2005**

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer  
Marlene J. Kirch  
Sohail U. Anjum, M.D.  
Jean Stoess, M.A.  
Cindy Lamerson, M.D.  
S. Daniel McBride, M.D.  
Benjamin J. Rodriguez, M.D.

***Board Members Absent***

Javaid Anwar, M.D., President

***Staff Present***

Drennan A. Clark, J.D., Executive Director/Special Counsel  
Laurie L. Munson, Deputy Executive Director/  
Information Systems Administrator/Chief of Administration  
Bonnie S. Brand, General Counsel  
Lynnette L. Krotke, Chief of Licensing  
Carolyn H. Castleman, Deputy Chief of Licensing  
Trent S. Hiett, Investigator (in Las Vegas)

***Also Present***

Charlotte M. Bible, J.D., Chief Deputy Attorney General

**RECONVENE**

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, reconvened the meeting at 8:30 a.m.

Agenda Item 29 **(CONTINUED)**

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE**

Mrs. Kirch moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Dr. Anjum seconded the motion, and it passed.

**CLOSED SESSION**

**29(o) Joel Schwartz, M.D.**

Dr. Anjum questioned Joel Schwartz, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his 2004 application for licensure, which he subsequently withdrew, and his affirmative responses to Questions 8, 9, 10 and 13 and negative responses to Questions 12 and 31 on his current application for licensure.

Dr. Schwartz stated he answered Question 12 in the affirmative on his 2004 application because there was a potential case he wanted the Board to be aware of, and he answered Question 12 in the negative on his current application because the case had been dismissed and he had received a clear report from the Data Bank. He also described the circumstances surrounding the domestic dispute in 2001 and his medical problem, which was the reason for his affirmative responses to Questions 8, 9 and 10 on his application for licensure.

Dr. Anjum moved that the Board grant Joel Schwartz, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(p) Rupesh Parikh, M.D.**

Mrs. Kirch questioned Rupesh Parikh, M.D., who appeared before the Board to respond to questions concerning his medical school and training.

Dr. Parikh described his training at U.S.C. and U.S.C.-affiliated facilities.

Mrs. Kirch moved that the Board grant Rupesh Parikh, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Dr. Lamerson seconded the motion, and it passed.

**29(r) Noreen Orevillo, M.D.**

Dr. Anjum questioned Noreen Orevillo, M.D. concerning her affirmative response to Question 12 on her application for licensure, and the fact that she has not practiced clinical medicine since December of 2000.

Dr. Orevillo described the circumstances surrounding the single claim of malpractice against her. She told the Board she has kept current with continuing medical education courses and by reading journals, and that she plans to work with another physician for a couple of months to get her skills back up to par.

Dr. Anjum moved that the Board grant Noreen Orevillo, M.D.'s application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(g) Annmarie McManus, P.A.-C**

Dr. Held questioned Annmarie McManus, P.A.-C, who appeared before the Board to respond to questions concerning the fact that she has not practiced clinical medicine since receiving her physician assistant degree in 2003.

Ms. McManus explained why she has not yet practiced as a physician assistant and described what she has been doing for work since she received her physician assistant degree. She has worked as a physical therapist, has been following physicians, has kept current with her continuing medical education and has been reading. She has been interviewing with physicians in the Las Vegas area.

Dr. Anjum moved that the Board grant Annmarie McManus, P.A.-C's application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(t) Thomas Parisi, M.D.**

Dr. Baepler questioned Thomas Parisi, M.D., who appeared before the Board to respond to questions concerning the fact that he attended three medical schools and his negative response to Question 27 on his application for licensure.

Dr. Parisi explained that he attended three medical schools for financial reasons, described his medical training, explained why he had difficulty passing the USMLE and why his application for licensure was denied in Pennsylvania. He told the Board he took the Internal Medicine Boards in August.

Dr. Rodriguez moved that the Board grant Thomas Parisi, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(s) Yang Sun, M.D.**

Dr. Baepler questioned Yang Sun, M.D., who appeared before the Board to respond to questions concerning his negative response to Question 19 on his application for licensure.

Dr. Sun explained the circumstances surrounding his being placed on probation during his residency training at the University of Texas Southwestern Medical Center at Dallas.

Dr. Rodriguez moved that the Board grant Yang Sun, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(v) Horace Guerra, M.D.**

Dr. McBride Questioned Horace Guerra, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 19 and 31 on his application for licensure.

Dr. Guerra explained the circumstances surrounding the investigation by the Texas State Board of Medical Examiners of a case involving a woman who had breast cancer and who claimed Dr. Guerra had rushed her through examinations and procedures and that she did not receive adequate explanations during the process. The Board did not discipline him, but suggested he take a look at his procedures.

Dr. Rodriguez moved that the Board grant Horace Guerra, M.D.'s application for licensure. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**29(aa) Dhananjay Paranjpe, M.D.**

Mrs. Kirch questioned Dhananjay Paranjpe, M.D., who appeared before the Board to respond to questions concerning his medical training.

Dr. Paranjpe described his postgraduate training.

Mrs. Kirch moved that the Board grant Dhananjay Paranjpe, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch amended her motion to the following: that the Board decline to exercise its discretion to grant licensure by endorsement to Dhananjay Paranjpe, M.D., and grant Dr. Paranjpe an unrestricted license via the normal pathway. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**29(u) Stephen Frye, M.D.**

Dr. Lamerson questioned Stephen Frye, M.D., who appeared before the Board on his request for a change in licensure status from inactive to active.

Dr. Frye described his practice history and what he has been doing to keep current in clinical medicine since he retired in 2001. He told the Board he is not sure what he will do if he is granted an active status license, but he is considering several ideas.

Dr. Rodriguez moved that the Board grant Stephen Frye, M.D.'s request for change in license status from inactive to active. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

**29(w) Mark Hyndman, M.D.**

Ms. Stoess questioned Mark Hyndman, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Hyndman described the circumstances surrounding the one claim of malpractice against him.

Ms. Stoess moved that the Board grant Mark Hyndman, M.D.'s application for licensure. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(x) Philippe Lanauze, M.D.**

Dr. Held questioned Philippe Lanauze, M.D., who appeared before the Board to respond to questions concerning his contradictory responses to Question 31 on his Application for Licensure and Question 11 on his Application for Initial Registration.

Dr. Lanauze explained that the discrepancy in his two responses was due to confusion on his part as to how to respond to the questions since the case against him by the Arizona Medical Board was dismissed without merit and he did not realize the case involved a violation of a statute, but thought it was simply an investigation of a patient complaint.

Dr. McBride moved that the Board grant Philippe Lanauze, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(y) Shahid Malik, M.D.**

Dr. Baepler questioned Shahid Malik, M.D., who appeared before the Board to respond to questions concerning his negative response to Question 31 on his application for licensure.

Dr. Malik explained that he responded in the negative to Question 31 because it was a year and a half prior to his application for licensure that he had been notified of the complaint against him by the Arizona Medical Board and he had heard nothing since then and had forgotten about it.

Dr. Anjum moved that the Board grant Shahid Malik, M.D.'s application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Rodriguez moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

**29(z) Donald O'Donoghue, M.D.**

Dr. Rodriguez questioned Donald O'Donoghue, M.D., who appeared before the Board to respond to questions concerning his negative responses to Questions 31 and 33 on his application for licensure.

Dr. O'Donoghue explained the reasons for the long break between his internship and residency training and his negative responses to Questions 31 and 33 on his application for licensure. He described his current practice, his resignation from Ridgecrest Regional Hospital and the investigations of him by the California Medical Board. He stated the reason he answered negatively to Question 31 was because he completed the application for licensure before being notified by the California Board that he was under investigation, and he was never formally notified he was under investigation. The only written notification he received from the California Board was at the conclusion of the investigation. He responded negatively to Question 33 because he resigned from Ridgecrest Regional Hospital. He described his current practice.

Mrs. Kirch moved that the Board return to Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board grant Donald O'Donoghue, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**29(bb) Vivek Srinarayana, M.D.**

Dr. Anjum questioned Vivek Srinarayana, M.D., who appeared before the Board to respond to questions concerning his medical training and his negative response to Question 31 on his application for licensure.

Dr. Srinarayana explained that the investigation by the Florida Board of Medicine was due to a discrepancy in his responses on his initial resident license application in 2002 and his renewal resident license application in 2004, concerning the fact that he had repeated an ob/gyn rotation. He answered affirmatively on the 2002 application and negatively on the 2004 application because he misread the question on the 2004 application. He responded in the negative to Question 31 on his application for licensure in Nevada because he was advised by the Florida Board that nothing would show up on his record there.

Dr. Anjum moved that the Board grant Vivek Srinarayana, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.



Agenda Item 30

**ELECTION OF OFFICERS AND APPOINTMENT OF COMMITTEE MEMBERS**

Dr. Baepler announced that nominations were open for election of President of the Board.

Mrs. Kirch nominated Dr. Anwar to serve as President. Ms. Stoess seconded the nomination, and it passed unanimously.

Dr. Baepler announced that nominations were open for election of Vice President of the Board.

Dr. McBride nominated Dr. Anjum to serve as Vice President. Mrs. Kirch seconded the nomination, and it passed unanimously.

Agenda Item 31

**MATTERS FOR FUTURE AGENDA**

Mr. Clark stated the following matters would be on the Agenda for the December Board meeting: consideration of a regulation concerning laser surgery; approval of a regulation adopting the form for reporting in-office surgeries by licensees as required by the last session of the Legislature; consideration of new regulation concerning the Board's policy of reinstatement to a previous license status before changing to a new license status after a licensee has been suspended for nonpayment; consideration of a request by Randy Watson, M.D. of the Lake Tahoe Orthopaedic Institute Fellowship Program to amend the Board's license renewal policy with respect to license fees charged to physicians participating in the first rotation of the fellowship program; and approval of a regulation adopting a code of ethics.

Agenda Item 32

**PUBLIC COMMENT**

The Board received no public comment.

**ADJOURNMENT**

Dr. Baepler adjourned the meeting at 11:50 a.m.